

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4242 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

Nos. 1 to 5 No

SHANTILAL D PATEL

Versus

GUJARAT STARE CIVIL SUPPLIES CORP LTD

Appearance:

MR.DC RAWAL FOR MR.MR ANAND for Petitioner
MR KANTILAL M PATEL for Respondent No. 1
MR KAMAL MEHTA for Respondent No. 2, 3

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 22/06/1999

ORAL JUDGEMENT

The petitioner was employed as District Godown Inspector in the Civil Supply Section under the Collectorate in the cadre of Deputy Mamlatdar. In 1981 he was sent on deputation to Gujarat Civil Supplies Corporation Limited - Respondent No.1. In 1986, he filed the present petition under Articles 14 and 16 of the

Constitution. The present petition is under Article 226 of the Constitution. Prayer made in para 14(1) reads as follows :

"(1) To treat the petitioner as having been permanently absorbed in the services of Respondent No.1 - Corporation in his present post."

Thus, at that time the petitioner desired to be absorbed in the Corporation. However, the learned Advocate for the Corporation has now produced copies of documents showing that ultimately the petitioner chose not to be absorbed in the Corporation and was repatriated at his own request. These documents are ordered to be taken on record. The letter dated 9.7.1991 addressed by the petitioner to the Corporation shows that his option to be absorbed in the Corporation had been accepted by the Government by its Resolution dated 6.5.1991 and the Corporation had issued necessary orders on 1.5.1991. But the petitioner changed his mind since he had passed Higher Revenue Qualifying Examination in 1990 and the Government had also revised the scales in the Revenue Department and he thought that he would suffer a loss by remaining in the Corporation. He, therefore, made a request that his option for absorption in the Corporation may be cancelled and he may be repatriated to the Revenue Department. His representation was forwarded to the Deputy Secretary, Revenue Department by the Corporation by its letter dated 16.7.1991. The Government Resolution dated 7.4.1992 shows that the petitioner's representation was accepted and the previous Government Resolution dated 6.4.1991 was cancelled and the Corporation was directed to modify its previous order accordingly. A copy of the office order dated 17.8.1992 passed by the District Supply Mamlatdar, Surat shows that the petitioner was transferred as Supply Inspector in the Office of the Collector, Surat. The learned Advocate for the petitioner states that he has now received instructions to withdraw the petition. In the petition the petitioner had prayed in the alternative to treat him as Deputy Mamlatdar on the footing that he passed the L.R.Q.E. at the first attempt and fix his seniority and other benefits of service in the cadre of Deputy Mamlatdar accordingly. Now this was a prayer in the alternative, if his first prayer for absorption in the Corporation was not granted. It is clear from the documents produced on the record that his prayer for absorption was granted but the said option was cancelled and he was repatriated at his own request. In the circumstances, the alternative

prayer does not survive in the present petition. The learned Advocate for the petitioner states that the petitioner desires to take appropriate proceedings for fixation of his seniority. It is always open to an employee to pursue such remedy as may be available to him according to law, if he has any grievance with regard to any condition of service. No opinion is expressed on merits in the alternative prayer of the petitioner. The petition is accordingly disposed of as withdrawn. Rule is discharged. No order as to cost. Interim relief stands vacated.

Sd/-

(M.C.Patel,J)

m.m.bhatt